

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
LAS VEGAS, NEVADA
Courtroom 7C

PRESIDING: The Honorable CHARLES R. WOLLE, Senior U. S. DISTRICT JUDGE

Melissa Jaime
Courtroom Administrator

Summer Rivera
Court Recorder

TUESDAY, DECEMBER 7, 2010
9:30 A.M.

2:07-CR-80-CRW-PAL

UNITED STATES OF AMERICA
VS.
MICHAEL JENKINS

Counsel for Government

Kathryn Newman
Steven Myhre

Probation Officer Leo Sanchez/Felipe Ortiz

9:30 a.m.

Defendant Michael Jenkins is present on terms of release.
Also present, is Case Agent Bobby Burkin.

The Court received arguments of counsel regarding [238] *Emergency MOTION to Withdraw Plea; Motion for Evidentiary Hearing and Motion for Substitution of Counsel*.

IT IS ORDERED: defendant Michael Jenkins emergency motion to set aside the guilty plea entered on July 28, 2010, and to have separate counsel appointed to represent him on the motion to withdraw his guilty plea is **DENIED**.

The Court finds no basis in fact to support the motion for separate appointment of counsel. The motion is untimely and could have been filed much earlier than the month before sentencing.

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Defendant Michael Jenkins did sustain a concussion, a head injury, in an automobile collision about (28) days before he entered his plea of guilty. The Court determined during the plea proceeding, defendant Michael Jenkins knew the consequences of entering into the plea agreement with the Government and was fully competent at the time. Mr. Jenkins was entirely satisfied with the work his attorney Margaret Stanish had performed for him up to and including his entry of a guilty plea to Count 1 of the Indictment.

Defendant Michael Jenkins has shown no fair or just cause to withdraw his plea of guilty.

Defendant Michael Jenkins reserves his right to file a petition seeking post conviction relief based on the grounds here asserted by his motion to appoint new counsel and to withdraw his guilty plea, and any other grounds not waived in his plea agreement.

Sentencing will be held commencing at 1:00 p.m., today, December 17, 2010.

Court recesses from 10:13 a.m. - 1:16 p.m.

The Court inquires of Government counsel as to any objections in the Plea Memorandum. The Government has no objections.

The Government indicates that there is a discrepancy in the PSR and the Plea Agreement that centers around the loss amount. In the plea the parties indicated a loss of \$10,000,000.00 in the PSR it indicates \$32,000,000.00. Government indicates that they are standing by the Plea Agreement. Further discussions are held between the Court, Counsel and Probation Court with respect to the PSR.

IT IS ORDERED: the Court will strike paragraph 49 from the PSR and asks for a revised report. As to paragraph 48 of the PSR, the Court directs the sentence about disposition be changed to say that after an appeal, the case was remanded and resulted in an agreed disposition of disorderly conduct, a misdemeanor.

Victim Robert Morrow, present along with his counsel Tyler Andrews, reads his victim impact statement for the record.

The Government and the Court are in receipt of a victim impact statement on behalf of Gerald McGuinness.

Defense witness James Skefos makes a statement on behalf of Mr. Jenkins.

Government makes a recommendation that the defendant be remanded to custody. Defense argues. Probation makes the recommendation that the defendant be permitted to self surrender.

IT IS ORDERED: Defendant Jenkin's shall self surrender on 2/28/2011 by 12:00 p.m. (Noon). Defendant Michael Jenkin's Passport is and shall remain under the control of the U.S. Pretrial Services.

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Sentence is imposed as to Count 1 of the indictment. Copy of conditions of release provided to defendant by Probation Officer.

Defendant is advised of his right to appeal.

Ms. Stanish makes an oral request to withdraw as counsel. The request to withdraw as counsel is **DENIED** at this time. Counsel advised to file motion to withdraw and to timely file notice of appeal.

FURTHER ORDERED: All remaining counts are dismissed.

Court is adjourned at 3:00 p.m.

LANCE S. WILSON, Clerk
UNITED STATES DISTRICT COURT

M. Jaime /s/
Deputy Clerk